

U.S.S.N. 10/708,810

9

04-0072 (BOE 0477 PA)

**REMARKS**

In the Final Office Action of June 20, 2005, claims 1-40 are pending. Claims 1, 28, 30, 32, and 37 are independent claims from which all other claims depend therefrom. Claims 1, 28, 30, 32, and 37 are herein amended. Applicant submits that although claim 28 as previously presented was in a condition for allowance, Applicant has herein amended claim 28 to further distinguish it from the prior art.

Claims 1-27 and 30-40 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson et al. (U.S. 6,464,169) in view of Sprenger et al. (U.S. 5,395,075).

Amended claim 1 recites the limitations of a servicing unit that includes a stowage unit and a staircase. The staircase is proximate to the stowage unit and has a stowed state and a deployed state. The staircase has stair elements and a state actuating system. The state actuating system transitions the stair elements between the stowed state and the deployed state within a single deck. The staircase includes a stowage module that is accessible in both the deployed state and the stowed state.

The first Office Action of December 30, 2004, states that Johnson discloses a stowage unit and Sprenger discloses retractable stairs. Applicant submits that Johnson discloses a fixed stairway entry 16 and Sprenger discloses a movable stair portion 81. Neither the fixed stairway entry 16 nor the stair portion 81 has a state actuating system that transitions stair elements between a stowed state and a deployed state within a single deck, as the claimed invention. The fixed stairway entry 16 is not stowed or deployed and the movable stair portion 81 is moved between two decks.

Also, the fixed stairway entry 16 of Johnson and the movable stair portion 81 of Sprenger do not have a stowage module that is accessible in both a deployed state and a stowed state. Both the fixed stairway entry 16 and the movable stair portion 81 do not even have a stowage module.

U.S.S.N. 10/708,810

10

04-0072 (BOE 0477 PA)

Applicant further submits that claim 1 clearly recites structure over that of Johnson and Sprenger. Neither Johnson nor Sprenger teach or suggest the state actuating system and the staircase having a stowage module as claimed.

Referring to MPEP 706.02(j) and 2143, to establish a *prima facie* case of obviousness the prior art reference(s) must teach or suggest all the claim limitations, see *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). Thus, Applicant submits that Johnson and Sprenger fail to teach or suggest each and every limitation of claim 1, therefore, claim 1 is novel, nonobvious, and is in a condition for allowance. Also, since claims 2-27 depend from claims 1, they are also novel, nonobvious, and are in a condition for allowance for at least the same reasons.

Amended claim 30 recites the limitations of a staircase having a staging area platform corresponding to one or more stair elements and vertically aligned with a service cart stowage unit platform when deployed. This increases working space at a normal counter height. Applicants submit that such a staging area platform is not taught or suggested by either Johnson or Sprenger. The Office Action states that an individual step is a staging area platform when someone is standing on it waiting to go up or down. Regardless of whether this is true, neither the fixed stairway entry 16 of Johnson nor the movable stair portion 81 of Sprenger include a platform that aligns with a service cart stowage unit platform when deployed. Again the stairway of Johnson is fixed and Sprenger does not even disclose a stowage unit. Thus, Johnson and Sprenger fail to teach or suggest each and every element of claim 30. Therefore, claim 30 and claim 31, which depends from claim 30, are also novel, nonobvious, and are in a condition for allowance.

Amended claim 32 recites the limitations of deploying a staircase within a stowage unit. Applicants submit that neither of the stated reference teach or suggest deploying a staircase within a stowage unit.

U.S.S.N. 10/708,810

11

04-0072 (BOE 0477 PA)

Claim 32 also recites the limitations of vertically and non-rotatably translating stair elements, which are vertically fixed in position relative to each other. The steps of Johnson are not deployed. The steps of Sprenger are rotated when deployed and are not vertically fixed in position relative to each other. Therefore, claim 32 and claims 33-36, which depend from claim 32, are also novel, nonobvious, and are in a condition for allowance.

Amended claim 37 recites the limitations of a staircase system that has one or more stowage modules that are accessible when stowed. The stowage modules provide increased stowage area and allow for such stowage to be accessible when deployed, as well as when stowed. The fixed stairway entry 16 of Johnson and the movable stair portion 81 of Sprenger do not have a stowage module, and clearly do not have a stowage module that is deployable and accessible when stowed. The current Office Action states that the area where the steps are is an open area when the steps are stored and as such is used for storage when something is placed there. Regardless of whether this is true, Johnson and Sprenger fails to teach or suggest a deployable and accessible stowage module of a staircase system. Therefore, claim 37 and claims 38-40, which depend from claim 37, are also novel, nonobvious, and are in a condition for allowance.

Claims 28-29 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson in view of Sprenger and further in view of Youtsey (U.S. Patent No. 675,916).

Amended claim 28 recites the limitations of a staircase having a support member, stair elements, and a state actuating system. The stair elements are vertically fixed in position relative to the support member. The states actuating system transitions the support member and the stair elements between a stowed state and a deployed state. The staircase is vertically and non-rotatably actuated between the states.

The stairway 18 of Johnson is fixed. The movable stair portion 81 of Sprenger is rotatable on a hinge 21, which is coupled to the bottom of an upper deck. The stairway 18 and the stair portion 81 do not move and are not

U.S.S.N. 10/708,810

12

04-0072 (BOE 0477 PA)

actuated in a vertical manner, such as the staircase 12 of the present application. The treads 3 of Sprenger are not vertically fixed relative to a support member, but rather the vertical positions thereof change relative to each other and relative to any support elements disclosed.

Youtsey discloses an automobile or car-step extension. Youtsey discloses permanent steps 3 and step extensions 1 and 2. The step extensions 1 and 2 also change in vertical position relative to each other and any supporting elements. Thus, the relied upon references fail to teach or suggest each and every element recited in claim 28.

The Office Action states that it would have been obvious to make the retractable steps of Sprenger to be non-rotatably retracted as taught by Youtsey since it is the mere substitution of one mechanical means for another. Applicant, respectfully, traverses. Applicant submits that it would not have been obvious to combine the step extensions 1 and 2 of Youtsey with Sprenger or to replace the movable stair portion 81 of Sprenger with the step extensions 1 and 2. The step extensions are merely used to add one or two treads to extend the length of an existing staircase. The step extensions are not a staircase in and of themselves. The step extensions are added to an existing staircase. In making such a statement one must be assuming that a full staircase can be constructed out of the step extensions as disclosed in Youtsey. There is nothing in Youtsey that would allow one to believe that such a hypothetical staircase could be formed, and that it would be able to support human weight.

Also, in order for the combination of prior art references and modifications thereof to be obvious, there must be some sort of motivation disclosed in the art to make such a combination and modifications. See MPEP 2143 and *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). Applicants submit that there is no such motivation provided in either of the references. Johnson and Sprenger are directed to an overhead galley crew rest facility and a stairway for an aircraft and Youtsey is directed to step extensions for an automobile. For argument sake, one may argue that

U.S.S.N. 10/708,810

13

04-0072 (BOE 0477 PA)

Youtsey provides some insight in extending a staircase and should there be a desire to extend a staircase, one may want to refer to Youtsey. However, it is clearly far reaching to argue that the disclosure of step extensions for an automobile, nonetheless, is sufficient disclosure and motivation to replace the movable stair portion of Sprenger for an aircraft with a completely different staircase, to provide a full staircase formed out of step extensions, and to somehow support those step extensions for feasible use. To make such assertions is to use improper hindsight reasoning in view of the present application and to take Official Notice without concrete evidence to support those assertions.

Referring to MPEP 2144.03, Office Notice unsupported by documentary evidence should only be taken by the Examiner where the facts asserted to be well-known, or to be common knowledge in the art are capable of instant and unquestionable demonstration as being well-known. The notice of facts beyond the record, which may be taken by the Examiner must be "capable of such instant and unquestionable demonstration as to defy dispute." *In re Ahlert*, 424 F.2d 1088, 1091, 165 USPQ 418, 420 (CCPA 1970). Applicant submits that the limitations in question are not capable of such instant and unquestionable demonstration as to defy dispute. Specific knowledge of the prior art must always be supported by citation to some reference work recognized as standard in the pertinent art. *Id.* at 1091, 165 USPQ at 420-21. Any facts so noticed should be of notorious character and serve only to "fill in the gaps" in an insubstantial manner. It is never appropriate to rely solely on common knowledge in the art without evidentiary support in the record as the principal evidence upon which a rejection was based. *Zurko*, 258 F.3d at 1386, 59USPQ2d at 1697 (Fed. Cir. 2001). The facts constituting the state of the art are normally subject to the possibility of rational disagreement among reasonable men and are not amendable to the taking of such notice. *In re Eynde*, 480 F.2d 1364, 1370, 178 USPQ 470, 474 (CCPA 1973). Ordinarily, there must be some form of evidence in the record to support an assertion of common knowledge.



U.S.S.N. 10/708,810

14

04-0072 (BOE 0477 PA)

General conclusions concerning what is "basic knowledge" or "common sense" to one of ordinary skill in the art without specific factual findings and some concrete evidence in the record to support these findings will not support an obviousness rejection. *Lee*, 277 F.3d at 1344-45, 61 USPQ2d at 1434-35 (Fed. Cir. 2002).

The Examiner must provide specific technical and scientific reasoning to support his or her conclusion of common knowledge. *In re Soli*, 317 F.2d at 946, 37 USPQ at 801 (CCPA 1963). Applicant submits that no specific factual findings or concrete evidence has been put forth nor has any specific technical reasoning been put forth to support the Official Notice taken. To simply state that one mechanical means can be substituted for another without support for the substitution, the combination, and the modifications necessary is irrelevant and is not a proper or valid argument that can be used against the Applicant. It is also not clear how such a substitution would be conducted. In addition, if Applicant challenges a factual assertion as not properly officially noticed or not properly based upon common knowledge, the Examiner must support the finding with adequate evidence. See 37 CFR 1.104(c)(2). Again Applicant submits that no such evidence has been provided to support a teaching or suggestion of the claimed elements.

Thus, Johnson, Sprenger, and Youtsey alone or in combination fail to teach or suggest each and every element of claim 28. Therefore, claim 28 is also novel, nonobvious, and is in a condition for allowance. Since claim 29 depends from claim 28, it is also novel, nonobvious, and is in a condition for allowance for at least the same reasons.

The Office Action states that Applicant's amendment necessitated the new grounds of rejection. Referring to MPEP 706.07, Applicants, respectfully, submit that this action has been improperly been made final. Applicants agree that under present practice a second or subsequent action may be made final even when the Examiner introduces a new ground of rejection as is necessitated by Applicant's amendment. However, Applicant submits that present practice does not sanction hasty or ill-considered final rejections. The

U.S.S.N. 10/708,810

15

04-0072 (BOE 0477 PA)


Applicant has merely sought to define the patent protection to which he is justly entitled. The Applicant has previously and clearly amended the claims such that the claimed invention is not taught or suggested by the prior art, and in so doing he deserves the cooperation of the Examiner and should not be prematurely cut off in the prosecution. The Applicant has responded promptly and has not resorted to technical or obvious subterfuges.

Moreover, Applicant believes that all of the limitations of at least previously presented claims 2-6, 9-16, 19, 28-29, 33, 38, and 40 are not taught or suggested by the relied upon references. Note that of the stated previously presented claims that the Examiner has not provided any arguments with regards to claims 2-6, 9-16, 19, 29, 33, 38, and 40.

In light of the amendments and remarks, Applicant submits that all the rejections are now overcome. The Applicant has added no new matter to the application by these amendments. The application is now in condition for allowance and expeditious notice thereof is earnestly solicited. Should the Examiner have any questions or comments, the Examiner is respectfully requested to contact the undersigned attorney.

Respectfully submitted,

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